IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 1ST JUNE 2007 / 11TH JYAISHTA 1929

WP(C).No. 16710 of 2007(L)

(AGAINST ORDER DATED 19.2.07 ON I.A.282/07 IN OS.2291/2003 of MUNSIFF COURT,IRINJALAKUDA)

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PETITIONER:

PARAVATTANI SAMOOHA MADOM,
THRIKKUR REPRESENTED BY SECRETARY RAMACHANDRAN,
S/O.THRIKKUR MADOM RAMAKRISHNAN, THRIKKUR P.O,
THRISSUR DT.

BY ADV. SRI.K.G.BALASUBRAMANIAN

RESPONDENTS:

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1. **WILSON, S/O.KIZHAKKESSERY NARAYANAN,**
   THRIKKUR P.O., THRISSUR DT.

2. **GOPALAKRISHNAN, S/O.THRIKKUR MADOM**
   PARAMESWARA IYER, THRIKKUR P.O., THRISSUR DT.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J

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W.P.(C) No.16710 OF 2007

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Dated this the 1st day of June, 2007

JUDGMENT

This writ petition is filed against the order of the Principal Munsiff, Irinjalakkuda in rejecting the prayer for remitting the Commissioner's plan and report. It is recorded by the learned Munsiff that though sufficient time was granted to file objection to the Commissioner's report, he has filed the application for remitting only when the matter came up for trial in the list. Learned counsel brings to my notice that defendants had already filed their objection to the Commissioner's report on 19.12.2006(Ext.P4). It appears that the trial court was not happy with the filing of the application for remission since the matter was included for trial. Therefore he did not apply his mind properly. Even if it is a belated application there is a duty cast upon the court to dispose it of after hearing both sides. Therefore the order under challenge is set aside and the learned Munsiff is directed to reconsider I.A.No.282/2007 after affording an opportunity to both sides. Since the application for remission has to be heard the trial court shall defer

he trial till a final order is passed.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-